

REMARKS

Currently, claims 1, 4-10, 12, 14, 17, 20-26, 28, 29, and 31-44, including independent claims 1 and 17 and new claims 40-44, are pending in the present application. Independent claim 1, for instance, is directed to an article comprising a substrate which includes an odor absorbing agent and at least one visual indicating agent in an amount effective to change color when exposed to an odor. The odor absorbing agent comprises nanoparticles. The visual indicating agent is selected from the group consisting of 4,4'-bis(dimethylamino)-benzhydrol, pararosanine, alpha-naphtholbenzene, and naphthochrome green. Furthermore, the visual indicating agent is present in differing concentrations to two or more zones on the substrate.

Additionally, in the Office Action, claims 4, 10, 17, 25-30, 33-34, 36, and 39 were rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter. Specifically, the Office Action states that the limitation "the visual indicating agent being applied in differing concentrations in two or more zones" is indefinite as the Examiner is unsure "whether it means that the visual indicating agent is applied in two or more zones (on the claimed article or) of something else, such as a toilet bowl." Applicants have amended claim 1 to require that the visual indicating agent is present in differing concentrations in two or more zones on the substrate. As such, Applicants respectfully request withdrawal of the rejection.

Additionally, the Office Action continues to reject claim 10 as being indefinite as "sulfur-based degradation products" is not defined in Applicants' specification." Furthermore, the Examiner notes that sulfur is an element that cannot be degraded into

smaller chemical entities, yet the Examiner also holds that "the term sulfur degradation product clearly refers to the products resulting from the degradation of sulfur."

Applicants amended "sulfur degradation products" to "sulfur-based degradation products" in their prior submission in an attempt to clarify for the Examiner. However, as the Examiner maintains his stance, Applicants have removed this amendment to better coincide with the specification language in preparation for appeal.

As the Examiner properly notes, "Sulfur is an element . . . (which) cannot be degraded into smaller chemical entities." As such, Applicants respectfully submit that one skilled in the art certainly would not conclude that "the term sulfur degradation product clearly refers to the products resulting from the degradation of sulfur." As submitted previously, one skilled in the art understands this term to refer to degradation products that contain sulfur. For instance, Applicants disclose that "the generation of odor from urine is mostly based on chemical and biological degradation of urine components, and amines, ammonia and sulfur degradation products (methyl mercaptan and hydrogen sulfide) are the major odor sources in urine." Pg. 5, lines 20-22. Thus, the sulfur degradation products in urine include methyl mercaptan and hydrogen sulfide. Clearly, these are not compounds formed from the degradation of sulfur as alleged by the Examiner, but rather degradation products that contain sulfur.

Additionally, in the Office Action, all pending claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over International Application No. WO 00/76558 to Persson in view of U.S. Patent No. 4,407,960 to Tratnyek as evidenced by the June 1995 BOC Gases MSDS for ethylene oxide, further in view of U.S. Patent No. 6,149,952 to Horan, further in view of *Analyst*, 1994, 119(5) (abstract) to Baker, further

in view of U.S. Patent App. No. 2003/0211618 to Patel, further in view of International Application No. WO 97/12030 to Karapasha, further in view of U.S. Patent App. No. 2002006425 to Takaoka, and further in view of European Patent App. EP 1214878 to Stoddart.

First, Applicants respectfully submit that the sheer number of references cited in an attempt to obviate Applicants' claims under §103 tends to strengthen the argument that one skilled in the art would not have found Applicants' claims obvious. However, even with the unusually large number of cited references, Applicants respectfully submit that none of the cited references obviate a visual indicating agent **being present in differing concentration in two or more zones** as required by Applicants' claims. In attempting to obviate this limitation, the Examiner first states "this limitation is not clearly understood as set forth above." Applicants have amended independent claim 1 to clarify that the two or more zones are present on the substrate. The Examiner then states:

Assuming arguendo that this limitation was intended to mean differing concentration regions of the visual indicator present on the claimed article, it would have been well within the ordinary skilled artisan to vary the concentration of visual indicators in different places on the article to ensure that the color change would be clearly visible to the user of the article.

Applicants respectfully disagree. Applicants have amended the claims to clarify that the two or more zones are configured to indicate the odor absorbing capacity remaining in the article. None of the references disclose or suggest such a limitation to one skilled in the art.

Persson discloses an absorbent article with an active additive and a visual indicator. The visual indicator indicates the active status of the additive. However, Persson fails to disclose or suggest applying the indicator in different concentrations in two or more zones to indicate the “degree” of activity or the amount of the active additive consumed/remaining.

Tratnyek discloses an indicator system to indicate effective ethylene oxide sterilization. Nowhere does Tratnyek disclose or fairly suggest utilizing differing concentrations of the indicator system in different zones in order to indicate the “degree” of sterilization to the user.

Horan discloses a system that indicates the presence of bacterial growth in packaged foods. Horan discloses no odor absorbing properties. Instead, Horan is configured to simply detect the presence or absence of bacteria in food products to allow the consumer to determine whether the food is safe for consumption. Clearly, one skilled in the art would not modify the indicators of Horan to attempt to quantify the amount of bacteria present. If the bacteria are present at all, the food is contaminated. The “degree” of bacteria contamination is immaterial.

Baker and Patel are cited as disclosing pararosaniline and naphthochrome green are known visual indicators. Again, however, neither of the references provides any incentive to one skilled in the art to apply at least one visual indicating agent to two or more zones in different concentrations to indicate the remaining odor absorbing capacity of the article.

Furthermore, in the Office Action, claims 1, 4, 6-10, 14, 17, 21, 28-29, 31, 33, and 35-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S.

Patent Application No. 20030130631 to Springer in view of Horan and further in view of U.S. Patent Application No. 20030203009 to MacDonald. MacDonald is cited as allegedly obviating Applicants claimed nanoparticles. However, MacDonald was first published on October 30, 2003 while the present Application was filed October 16, 2003. As such, MacDonald only potentially qualifies as prior art under 35 U.S.C. § 102(e). Applicants respectfully submit that the present application and MacDonald were, at the time the invention of the present application was made, owned by Kimberly-Clark Worldwide, Inc.¹ As such, Applicants respectfully submit that MacDonald is not available as prior art in a §103 rejection (see 35 U.S.C. § 103(c)). Thus, Applicants respectfully request withdrawal of this rejection.

Finally, claim 1, 5-7, and 12 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 4-9 of copending application no. 12/134,547. Applicants submit herewith a terminal disclaimer in compliance with 37 CFR 1.321 with respect to the '547 application. As such, Applicants respectfully request withdrawal of the rejection.

As such, Applicant respectfully submits that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Alstrum-Acevedo is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

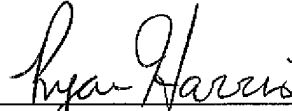
Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

¹ The assignment of McDonald is recorded at Reel/Frame# 012862/0470. The assignment of the present application is recorded at Reel/Frame# 015015/0389.

Appl. No. 10/687,269
Amdt. dated Oct. 21, 2009
Reply to Office Action of July 21, 2009

Respectfully requested,

DORITY & MANNING, P.A.

A handwritten signature in black ink, appearing to read "Ryan P. Harris", written over a horizontal line.

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